

Tribal Land Transfer Policy

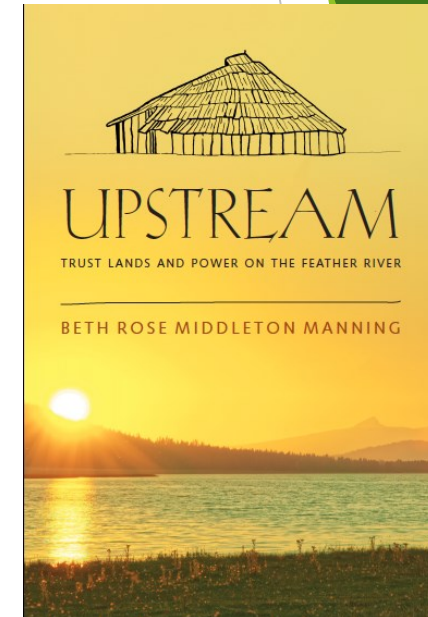
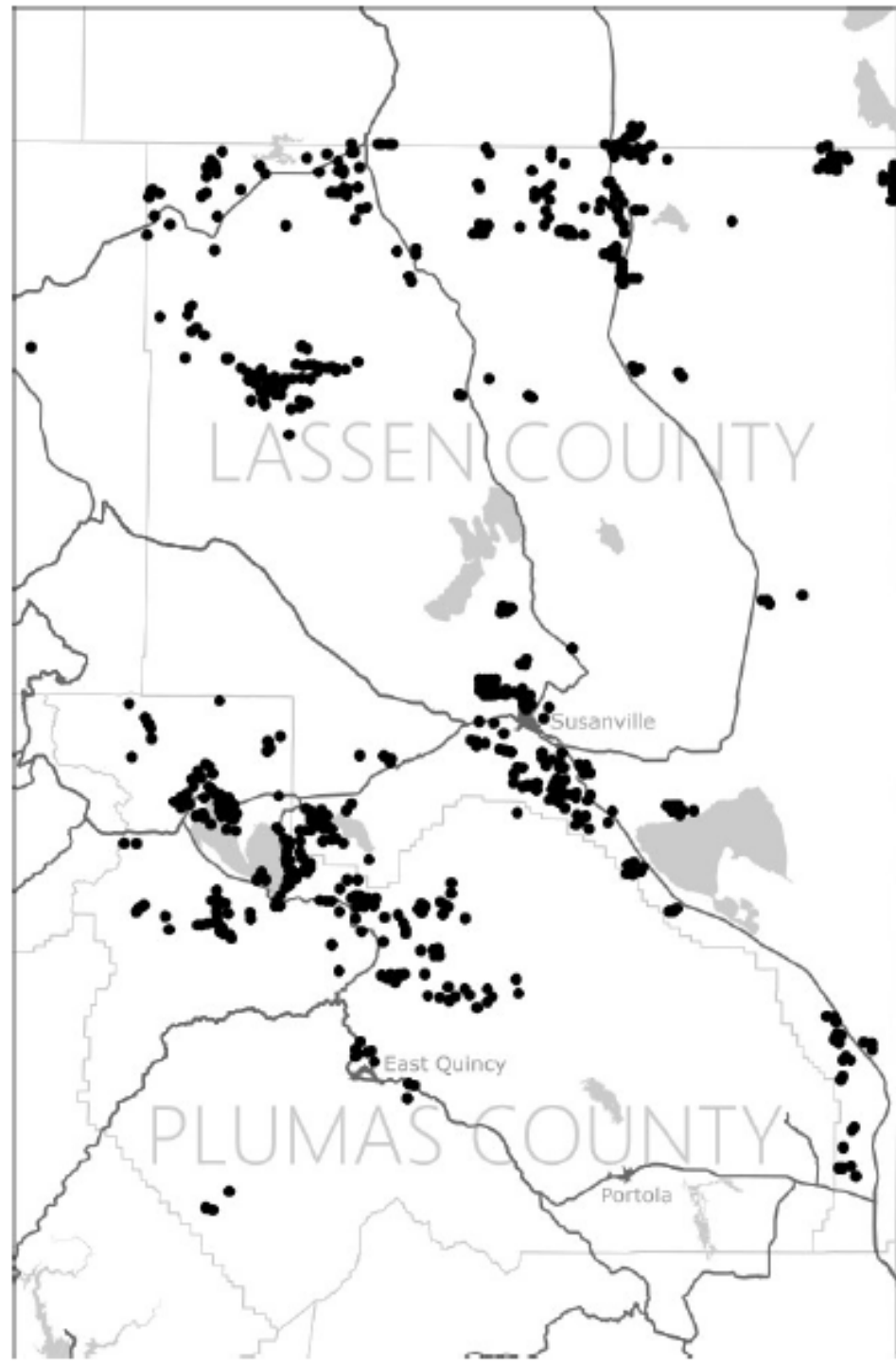
Emerging Trends Committee
California Public Utilities Commission
May 29, 2019

Presenters

- ▶ Dr. Beth Rose Middleton Manning, Associate Professor and Chair, Dept. of Native American Studies, Yocha Dehe Endowed Chair in California Indian Studies, University of California, Davis
- ▶ Christina Snider, Tribal Advisor, Office of Governor Gavin Newsom, and Executive Secretary of the Native American Heritage Commission
- ▶ Darcie L. Houck, Advisor to Commissioner Guzman Aceves Office

Dr. Beth Rose Middleton Manning, Chair Native
American Studies Department University of California
Davis





Individual Indian
Allotments in
Plumas and
Lassen counties,
California
*Cartography by
Michelle Tobias*

General Allotment Act (Dawes Act): 1887

- Goals: encourage private property ownership, settlement, farming, and break up collective Indian lands
- Up to 160 acres available to individual Indian people, with trust patent held by government for 25 years: could be on reservations or on the public domain
- On large reservations, allotments divided and vastly reduced Indian land holdings.
 - Allotment could occur without tribal consent and in violation of treaties (*Lone Wolf v. Hitchcock* 1903)
- After treaties were not ratified with CA tribes, public domain allotments were one of the ways California Indian people obtained recognized land rights

Public Sale of Indian Lands

At Greenville Indian Agency

JULY 18, 1922

Sealed bids for the following listed lands will be opened at two p. m. July 18, 1922, at the Indian Agency, Greenville, California. Bidders, owners interested parties may be present. Each bid must be accompanied by a certified check, draft or certificate of deposit on some solvent bank payable to the order of the Superintendent, Greenville Agency, for ten (10) per cent of the amount offered. If the bid is accepted and the successful bidder shall fail to comply with the terms of his bid within thirty (30) days after due notice of acceptance such check or other exchange will be forfeited for the use of the owner of the land. All bids or offers should be marked with the number of the allotments, enclosed in a sealed envelope marked "Bid for Indian Land, to be opened July 18, 1922." In

no case shall a bid be less than the appraised valuation shown hereon.

No bidder will be allowed to include more than one allotment in any one bid. If a prospective purchaser desires to bid on more than one allotment he must submit a separate bid for each allotment, except as follows: White River Reservoir Group, Allotments 892, 893, 894, 895, 896, 897, 898, 964 and 965; also Millsite Proposition, Allotments 200 to 206 inclusive. No bids will be received on any single allotment in these two groups; they must all sell under one bid to one bidder.

Cost of advertising and conveyances, if any, must be paid by purchaser at \$1.50 if sale price is less than \$1000; \$2.00 if sale price is more than \$1000 and less than \$2000; and \$2.50 if sale price is more than \$2000 for each allotment.

In conformity with Indian Office Regulations of June 15th, 1920, approved by the Assistant Secretary June 24th, 1920, made under the Indian Appropriation Act of February 14th, 1920, Public No. 141-66th Congress, the purchaser will be required to deposit with the Superintendent of the Greenville School, in addition to the consideration for the land the sum of \$20.00 for each allotment, such amount to be paid when the purchaser is notified that he is the successful bidder, this amount to be in addition to the cost of conveyances and advertising fees as required under the regulations governing the sale of allotted and inherited Indian lands.

The award is made to the highest bidder. The right to reject any or all bids is reserved to the Commissioner of Indian Affairs. There will be no sale until approved by Commissioner

Indian Affairs. Lands sold will be conveyed direct to the purchaser by Patent in fee simple from the United States. Each Patent issued to the purchaser will contain the following clause: "And there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States."

Terms of payment are as follows: Ten per cent (10 per cent) of purchase price with the bid and balance of ninety per cent (90 per cent) within thirty (30) days after notice of acceptance of bids by the heirs or allottees.

In exceptional cases a deferred payment plan may be approved extending over three years and bearing seven (7) per cent per annum on deferred payments; the terms are ten (10) per cent of purchase price with

the bid, fifteen (15) per cent within thirty days of notice of acceptance of bid, twenty-five (25) per cent in one year; twenty-five (25) per cent in two years and twenty-five (25) per cent in three years.

The sale of a tract of land that is leased will be subject to the terms of the lease. All rentals due prior to the approval of the sale shall go to the Indian lessor. All rentals due after the date of approval shall go to the purchaser. It is understood leases are made for a term of one calendar year only, payments for same being made in advance.

The acreage on these allotments are a close approximation, as no special or absolute surveys are made by this office.

Township plats, detailed appraisal and reports of appraisers may be examined at any time during office

hours at Greenville Agency, Greenville, California. Any further information desired will be given if possible upon request.

EDGAR K. MILLER,
Greenville, Calif. Superintendent.
April 28, 1922.

FORM OF BID RECOMMENDED FOR USE

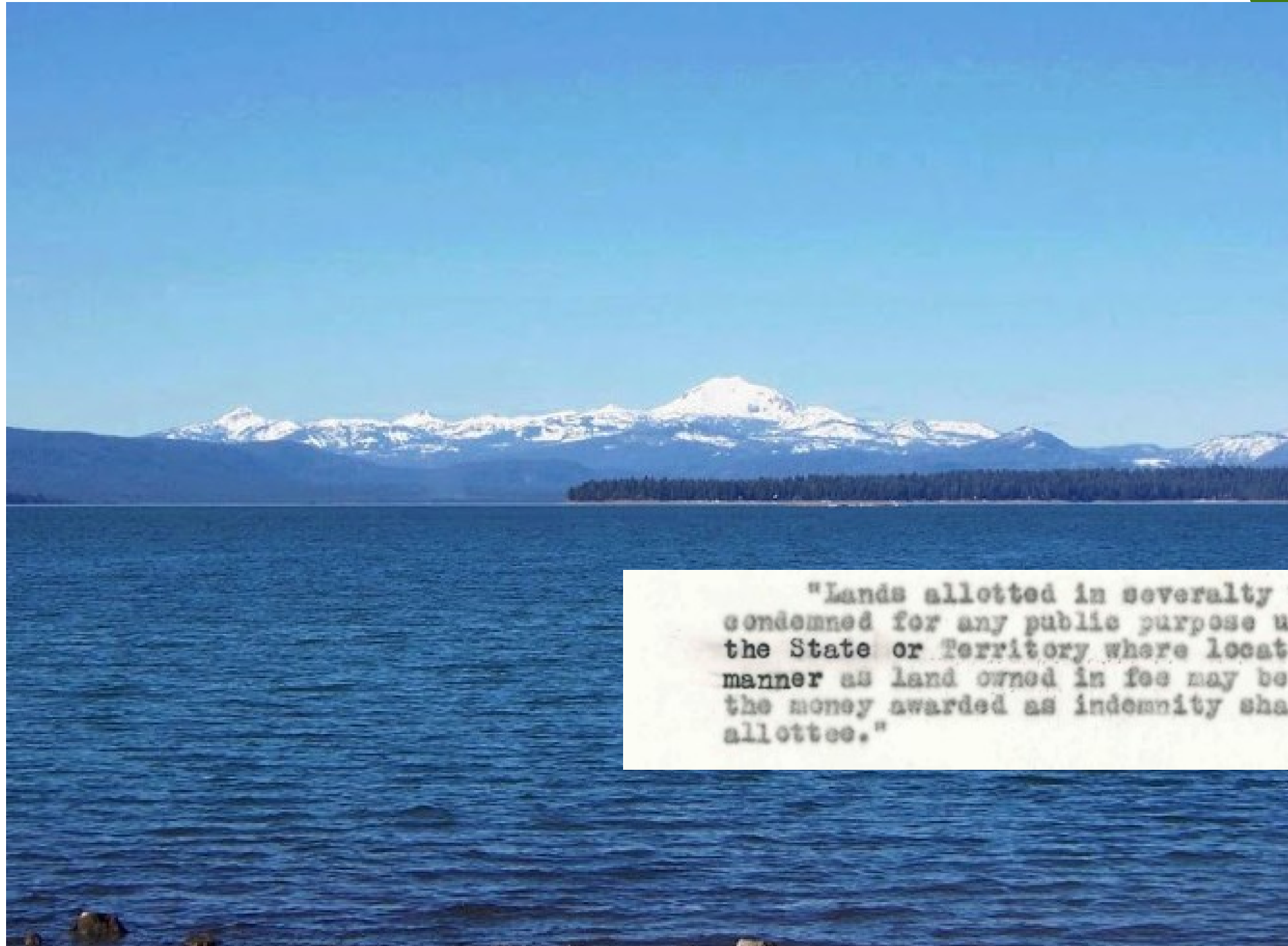
I hereby submit a bid on the allotment of (Name of Indian) Allotment No. (Give number) being the (insert legal description).

My bid on this land is \$.....
A certified check for 10 per cent \$....., is enclosed herewith.

Sign full name and give postoffice address.

Power site withdrawals

- ▶ PL 109 (1908), “An Act To relinquish, release, and confirm the title of certain lands in California to the Western Power Company” canceled 890 acres of state and federal land and transferred it to the power company.
- ▶ June 25, 1910 (36 Stat., 847), (power site reserves Nos. 234 and 245): These power-site withdrawals contained about 2,250 acres of lands covered by Indian allotments, as well as about 1,080 acres in unapproved State and lieu selections, and 80 acres [of] homestead entries.



"Lands allotted in severalty to Indians may be condemned for any public purpose under the laws of the State or Territory where located in the same manner as land owned in fee may be condemned, and the money awarded as indemnity shall be paid to the allottee."

INDIAN ALLOTMENT APPLICATION FOR LANDS OUTSIDE OF ANY INDIAN RESERVATION.

(Act February 8, 1887, Stat. 24, p. 388, as amended by act February 28, 1891, Stat. 26, p. 794.)

United States Land Office,

Susauville Cal

March 27th, 1894

APPLICATION No. 163.

I, John Jenkins, being an
Indian of the Big Meadows tribe, do hereby apply to have
allotted my minor child Goodseener Jenkins
Age 16 years, under the provisions of the fourth section of the act

of Congress, approved February 8, 1887 (Stat. 24, p. 388), as amended by act of February
28, 1891 (Stat. 26, p. 794), the ²

SW^{1/4} of SE^{1/4}~~SE^{1/4} of SW^{1/4} Sec 15~~~~E² of NW^{1/4} of Sec 22~~Tp 27^N R 8^E MDNPaid to Master
Bourne Co.

This land is valuable only for
grazing purposes.

containing ¹⁶⁰ ~~160~~ acres.John Jenkins
made

Witnesses:

W. Rykall
L. A. Roseberry

United States Land Office,

Susauville Cal.

March 27th, 1894

I, L. A. Roseberry, Register of the Land Office, do hereby
certify that the above application is for Susauville lands,
and that there is no prior valid adverse right to the same.

L. A. Roseberry,
Register.

Bob Shafer, an Indian of the Greenville Jurisdiction, being duly sworn, makes the following statement; That about fourteen years ago before they started to build the dam at Big Meadows, Mr Bidwell now of Greenville, California, who was connected with the Great Western Power Company getting lands under the Great Western project, came to my place in Butt Valley with another man, I don't remember who the other man was, maybe he was with the Western Power Company, and Mr Bidwell said to me, You got to go to Quincy? I said? what for?.. He said, "This place they going to make something out of it, you better go get your money". I said, " I don't want to sell this place". He said, "They going to make a tunnel" and I suppose they going to pay me for it. He said, " This your land and if they don't make tunnel here it b belongs to you, if they make tunnell you get other land somewhere else". My wife was there, we were working in garden. Two or three days after I want to Quincy, and they took me to a room in a Bank, I don't know whether I signed paper or not, they asked me what kind of money I wanted, Horace Mc Beth was Clerk, he paid me about two hundred fifty dollars, Bidwell was at the table, two or three other white men were there, John Jenkins and Thompson Jim were there, Jenkins boy that was drowned in Meadows was there, Celia Jenkins and all the Jenkins girls were there, I saw Thompsons woman and Meadows woman get some money and the Jenkins boy who was drowned got money. I lived on the place about a year after this happened, and I had trouble with sheepman who told me, he rented this place from Power Company and it was'nt my land. I then moved to Prattville.

Race and Gender basis of “Relinquishments”

FILES

October 11, 1956

Douglas Clark, Area Realty Officer
Sacramento Area Office

Visit of Joseph (Joaquin) Meadows concerning the relinquishment by
John Meadows of his allotments Sus-145 and Sus-1014.

It appears from the files that allotment Sus-145 was relinquished
because of non-Indian blood of the allottee. Allotment Sus-1014
was relinquished in favor of the Great Western Power Company and
there is no record of the allottee having received any compensation

Allotment 1014, 80 acres,
was condemned by the Superior
Court of Plumas Count in a
decree dated Nov. 22, 1902.
No record has been made of the
compensation to the allottee.

E. K. M.

SEE FILE SUS. 145 AND THE FILE
GREAT WESTERN POWER COMPANY,
RESERVOIR.

“No compensation”

- ▶ Rose Meadows Salem, daughter of John Meadow, allotted, land taken, re-allotted, then land taken because she did not meet settlement criteria

I, Rosée Meadows Salem, being first duly sworn, depose and say that on March 26, 1894 I was allotted the SE¹/₄ SE²/₄, W¹/₄ SE²/₄, SW²/₄ NE²/₄, Section 3, Township 26 North, R. 7 E. This land being settled on many years before by my Grandfather, John Meadow, we lived on this land for seven (7) years after it was allotted. We cut hay on it for many years. In 1901, or 1902, Gus Bidwell told us that we had lost our land and would have to move away. We had all along Butt Creek - eight hundred (800) acres. I think that the Power Company wanted it.

same was cancelled for the reason that she was the daughter of a white man, without her knowledge or without giving her a chance to prove she was entitled to make entry under the allotment act. Last above mentioned action on the part of the seems might have been to take an allotment on

The records of this Office show that this Indian was the daughter of a white man, but that she has always been recognized as a member of the Digger Indian Tribe. The records do not show the

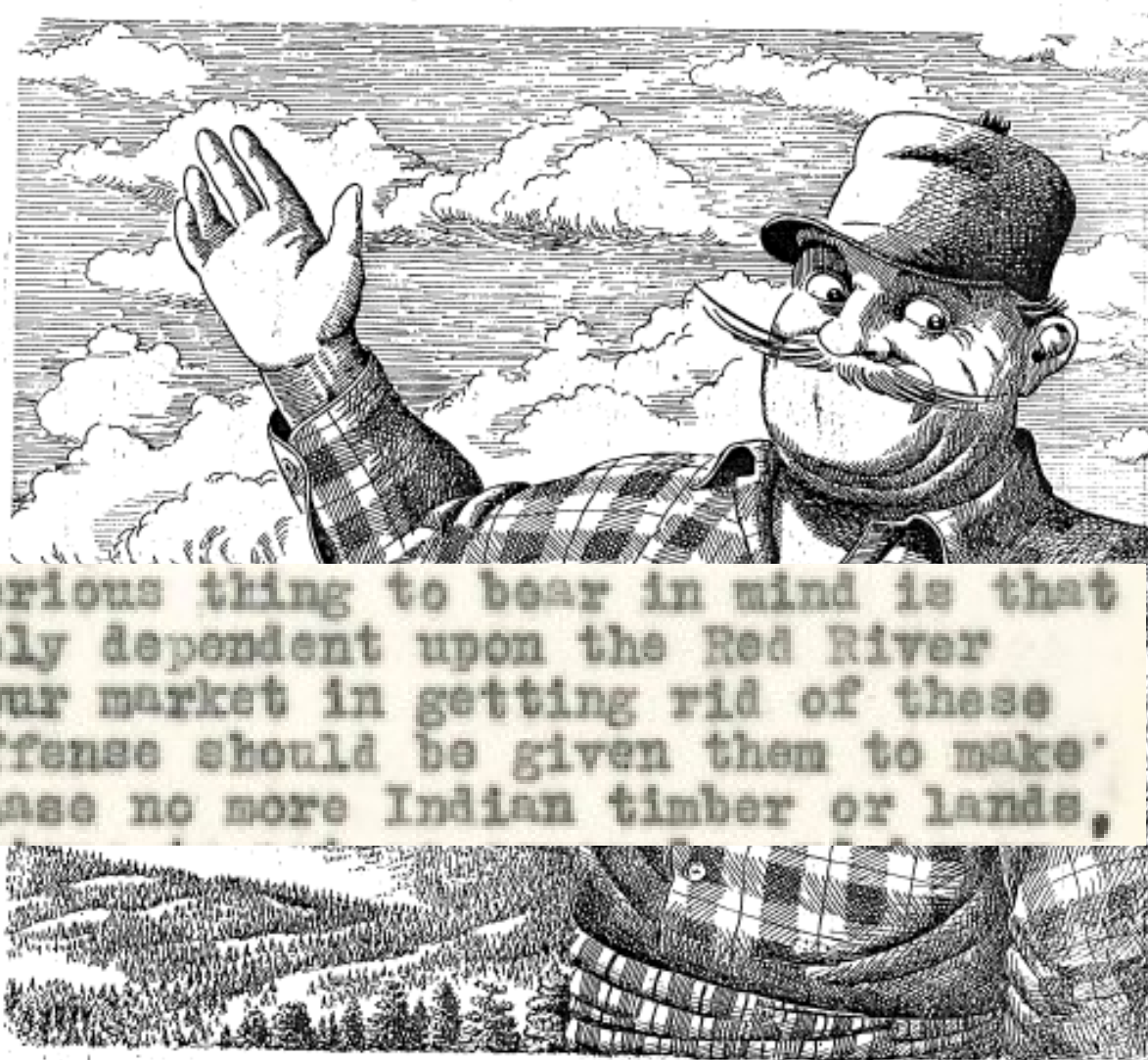
It is not known what steps if any were undertaken to reimburse this applicant for loss sustained from her original entry. In this connection and for your information the land has proven very valuable. As it is understood that it is now included in the project of the Great Western Power Company and would approximately be worth from \$10,000.00 to \$12,000.00. It would therefore appear that if the applicant is now



J. B. WALKER, STATE LUMBER

One serious thing to bear in mind is that we are almost entirely dependent upon the Red River Lumber Company for our market in getting rid of these lands and that no offense should be given them to make them decide to purchase no more Indian timber or lands,

000 Westwood Project



PAUL BUNYAN GUARDIAN OF RED RIVER'S FOREST

For thirty years, 1914 to 1944, Paul Bunyan has been the emblem of The Red River Lumber Company. His likeness is the company's trademark* and his spirit has been a friendly presence in many relations with employees, the trade and the public. Paul Bunyan will continue as the trademark and the symbol of Red River's current and future activities, particularly in the administration of large tracts of virgin pine forest in the California Sierra.

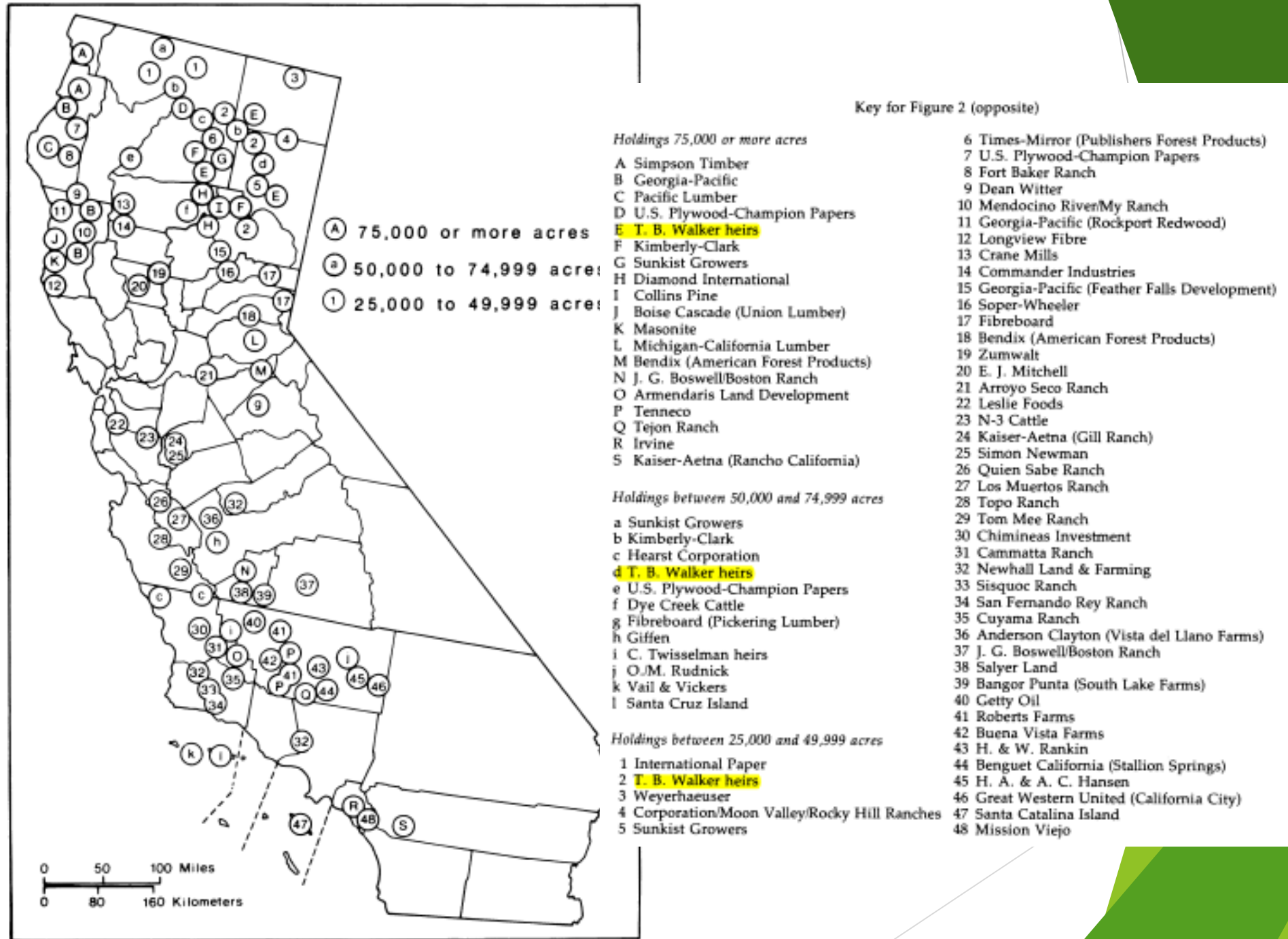


FIG. 2—Largest private landholdings in California (key opposite).



Big Meadows, CA, photo from Cook, circa 1910-1920

P·G^{and}E's FEATHER RIVER *Powerland*



Rock Creek Powerhouse

Water Resources
Center Archives

PACIFIC GAS & ELECTRIC COMPANY

Promotional brochure on the “PG&E Powerland” or “Feather River Powerland.” This document lauds PG&E’s “Stairway of Power” in the Feather River Canyon (Pacific Gas & Electric Company, “Feather River Development,” circa 1957, WRCA, Hans Albert

Along with their gathering sites, the Maidu lost salmon and snapping turtles, ceremonies, language, and song—‘everything that goes with the land...We have always been looking for compensation for what we lost. Always.’ - Lorena Gorbet, 2014



Cristina Snider, Tribal Advisor, Office
of Governor Gavin Newsom

The background of the slide features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily located on the right side and bottom of the slide, creating a modern, dynamic feel.

Presentation of Proposed Policy- Investor-Owned Utility Real Property- Land Disposition - First Right of Refusal for Aboriginal Properties to California Native American Tribes

Darcie L. Houck- Advisor to Commissioner Guzman Aceves

Purpose of Proposed Tribal Land Transfer Policy

- ▶ On April 26, 2018, the California Public Utilities Commission adopted its first Tribal Consultation Policy.
- ▶ Consistent with the goals of the Tribal Consultation Policy and Executive Order B-10-11, this proposed policy provides a first right of refusal by California Native American tribes or groups where investor owned utilities (IOUs) seek to divest watershed fee property outside of FERC project boundaries
- ▶ The proposed policy also requires IOUs to affirmatively consult with tribes where the property proposed to be divested is within the tribes aboriginal territory to determine whether there is interest in acquisition of the land and to address any potential mitigation that may be needed to protect cultural resources if properties are within FERC project boundaries and the property is being transferred to an entity other than the Tribe.

Executive Order B-10-11

- ▶ Executive Order B-10-11 declares that “the State is committed to strengthening and sustaining effective government-to-government relationships between the State and the Tribes by identifying areas of mutual concern and working to develop partnerships and consensus.”
- ▶ The Executive Order directs state executive agencies and departments to “encourage communication and consultation with California Indian Tribes.”
- ▶ It further directs state agencies and departments “to permit elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities.”

California Native American Tribes

- ▶ California is home to over 170 California Native American tribes. Executive Order B-10-11 applies to California agency actions involving federally-recognized tribes and other California Native Americans.
- ▶ The terms “tribes” and “tribal governments” refer to elected officials and other representatives of federally-recognized tribes and other California Native Americans as recognized by the NAHC.

Consistency with Commission Tribal Consultation Policy

- ▶ This policy is to be read consistent with the Commission's Tribal Consultation Policy, which requires that the Commission:
 - ▶ provide notification of Commission proceedings to tribes,
 - ▶ encourage tribal participation in Commission proceedings, and
 - ▶ meaningfully consider tribal interests and the protection of tribal sacred places and cultural resources.

Policy Directives

- ▶ IOUs to notify the appropriate California tribe(s) at the time the IOU determines it will dispose of properties or retained land located in or adjacent to a tribe's territory.
- ▶ Preference for the transfer of non-FERC jurisdictional watershed and retained land to California tribes consistent with specific considerations, and to the extent that a conflict does not exist with applicable laws or regulations.

Policy Goals

- ▶ Recognize and respect tribal sovereignty.
- ▶ Protect tribal sacred places and cultural resources.
- ▶ Ensure meaningful consideration of tribal interests and the return of lands within the tribe's aboriginal territory to the appropriate tribe.
- ▶ Encourage and facilitate notice to and participation of tribes in matters before the Commission that involve land transfers by IOUs.

Affects of IOU Land Transfers on Tribes

- ▶ New or changed land use activities on or near tribal communities;
- ▶ Ability to protect and access tribal sacred places and cultural resources; and
- ▶ Provide opportunities to return lands that were taken without the tribe's consent to California tribes.

Facilitating Tribal Access to Information

- ▶ Requires the IOUs to notify tribal governments of any plans to dispose of properties, including retained land within a tribe's territory.
- ▶ Provides special consideration for tribal requests to participate in Commission proceedings involving section 851 IOU requests to dispose of properties.
- ▶ Grant a tribe's request to become a party in such proceedings and consider the tribe's comments or protest.
- ▶ If an IOU fails to provide notice to the appropriate tribe(s) before submitting an application or advice letter requesting Commission approval of the transaction, the Commission will provide the tribe additional time to participate in the proceeding.

Facilitating Tribal Access to Information (continued)

- ▶ Ensure relevant information the Commission receives from a tribe is submitted into the record of a proceeding (including presenting such information where the land transfer is the subject of an advice letter), consistent with the confidentiality provisions set forth in the Commission's Tribal Consultation Policy.
- ▶ Where an IOU seeks approval to transfer non-FERC jurisdictional property, including retained land within a tribe's territory, the tribe shall be deemed the preferred transferee absent a finding supported by substantial evidence that it would be in the public interest to transfer the land to another entity.
- ▶ This policy applies to all proposed transfers of non-FERC jurisdictional retained land.

IOU Requests Subject to Section 851: notice and consultation

- ▶ IOU makes a request to the NAHC to identify tribal entities interested in the area where the property being disposed of is located.
- ▶ IOU provides written notice of any proposed disposition of property in the Tribe's territory prior to any disposition of such land.
- ▶ IOU provides documentation of communication between the IOU and the Tribe regarding whether or not the Tribe is interested in acquiring the land at issue or believes additional mitigation is required to protect cultural resources.

Consideration of Tribal Land Transfer Requests

- ▶ Tribe provided a first right of refusal for any transfer of non-FERC jurisdictional lands divested by IOU subject to a rebuttable presumption that it is in the public interest to provide tribal entities the first opportunity to acquire such property.
- ▶ For land transfers within a FERC jurisdictional project, the Commission will consider any request by a tribal entity, as well as comments regarding potential impacts on tribal cultural resources and suggested mitigation measures that should be included in any authorization of the Commission for the disposition of such assets as part of the proceeding along with any requests from other entities.

Proposed Process and Timeline

- ▶ Presentation to Emerging Trends Committee
 - ▶ May 29, 2019
- ▶ Outreach and notice to Tribal Governments
 - ▶ May-August 2019
- ▶ Tribal Consultation Meetings
 - ▶ Summer 2019
- ▶ Public Comments on Policy [Policy posted on website]
 - ▶ September 30, 2019
- ▶ Review Public Comments
 - ▶ October 2019
- ▶ Present Final Proposed Policy to Emerging Trends Committee
 - ▶ November 2019
- ▶ Place Policy on Commission Agenda for Vote
 - ▶ December 2019 - January 2020

Questions?